

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RECEIVED
SDNY PRO SE OFFICE

2016 JUN 16 PM 12:01

KEVIN SMITH

(In the space above enter the full name(s) of the plaintiff(s).)

16CV4557
COMPLAINT

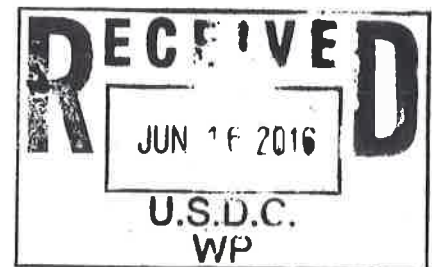
-against-

P.O. CALIFANO & P.O. TINDAL
YONKERS, NEW YORK 10703

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)



I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name MR. KEVIN SMITH
ID # 183673
Current Institution WESTCHESTER COUNTY JAIL
Address P.O. BOX-10
VALHALLA, NEW YORK 10595

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name P.O. MR. TINDAL Shield # UNKNOWN
Where Currently Employed YONKERS POLICE DEPARTMENT
Address 104 SOUTH BROADWAY, YONKERS, NEW YORK 10701

Defendant No. 2 Name P. O. MR. CALIFANO Shield # UNKNOWN
Where Currently Employed YONKERS POLICE DEPARTMENT
Address 104 SOUTH BROAD, YONKERS, NEW YORK 10701

Defendant No. 3 Name _____ Shield # _____
Where Currently Employed _____
Address _____

Defendant No. 4 Name _____ Shield # _____
Where Currently Employed _____
Address _____

Defendant No. 5 Name _____ Shield # _____
Where Currently Employed _____
Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

B. Where in the institution did the events giving rise to your claim(s) occur?

C. What date and approximate time did the events giving rise to your claim(s) occur?

D. Facts: ON SEPTEMBER, 30th, 2015 ON OR ABOUT 8:30 pm, I WAS
ARRESTED ON 31 VINEYARD AVE IN YONKERS, NEW YORK POLICE
OFFICERS MR. CALIFANO AND MR. TINDAL. AFTER A SHORT FOOT CHASE
I WAS KICKED IN THE LEFT LEG AND PUSHED TO THE GROUND BY
OFFICER TINDAL, ONCE I WAS ON THE GROUND, OFFICER TINDAL
KICKED ME IN THE GROIN, CAUSING ME SEVER PAIN. I WAS THEN
HAND CUFFED AND BROUGHT TO MY FEET, AT WHICH TIME OFFICER
CALIFANO WALKED UP TO ME AND PUNCHED ME IN THE FACE-MOUTH
KNOCKING OUT THREE OF MY FRONT TEETH, "STATING THATS WHAT
YOU GET FOR MAKING ME RUN" ONCE I WAS IN THE POLICE STATION
OFFICER CALIFANO TOLD ME THAT IF I MAKE A SCENE AND REPORT
MY INJURIES THAT HE WAS GOING TO CHARGE ME WITH NUMEROUS
FELONY CHARGES, INCLUDING ASSAULT ON AN OFFICER. BECAUSE OF
THESE THREATS 'I WAS AFRAID TO SAY OR DO ANYTHING AT THAT
TIME, SO I WAITED UNTIL I GOT TO THE COUNTY JAIL AND PUT IN
FOR SICK CALL, AND PAIN MEDICATION.

What
happened
to you?

Who did
what?

Was
anyone
else
involved?

Who else
saw what
happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. I SUFFERED SEVER DAMAGE TO MY THREE FRONT
TEETH, TO THE POINT WHEREAS ITS HARD FOR ME TO EAT AND SPEAK
CORRECTLY, I SAW MEDICAL AND DENTAL AND WAS TOLD THAT I WOULD
HAVE TO GET ORAL SURGERY, AND THAT VALHALLA WAS NOT EQUIPPED TO
HANDLE SUCH A JOB IN THIS THEIR FACILITY.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ____ No **X** ____

when and how, and their response, if any: **N/A**

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. **N/A**

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). **\$250,000 FOR CRUEL AND UNUSUAL PUNISHMENT, ABUSE OF AUTHORITY FOR MY PAIN, SUFFERING, DEPRESSION, AND DISFIGUREMENT.**

VI. Previous lawsuits:

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ____ No **X**

On
these
claims

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes _____ No **X** Do Not Know _____

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes _____ No **X** Do Not Know _____

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes _____ No **X**

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes _____ No **X**

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

N-A

1. Which claim(s) in this complaint did you grieve? **N/A**

2. What was the result, if any? **N/A**

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. **N/A**

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: **N/A**

2. If you did not file a grievance but informed any officials of your claim, state who you informed,

when and how, and their response, if any: N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. N/A

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. **Relief:**

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). \$250,000 FOR CRUEL AND UNUSUAL PUNISHMENT, ABUSE OF AUTHORITY FOR MY PAIN, SUFFERING, DEPRESSION, AND DISFIGUREMENT.

VI. **Previous lawsuits:**

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ____ No X

On
these
claims

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff N/A

Defendants N/A

2. Court (if federal court, name the district; if state court, name the county) N/A

3. Docket or Index number N/A

4. Name of Judge assigned to your case N/A

5. Approximate date of filing lawsuit N/A

6. Is the case still pending? Yes No

If NO, give the approximate date of disposition N/A

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?)

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?
Yes No N/A

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff N/A

Defendants

2. Court (if federal court, name the district; if state court, name the county) N/A

3. Docket or Index number N/A

4. Name of Judge assigned to your case N/A

5. Approximate date of filing lawsuit N/A

6. Is the case still pending? Yes No

If NO, give the approximate date of disposition N/A

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) N/A

I declare under penalty of perjury that the foregoing is true and correct.

Signed this ____ day of _____, 20__.

Signature of Plaintiff

Inmate Number

Institution Address



183673

P.O. Box 10

Valhalla, NY 10595

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this ____ day of _____, 20__, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: _____

AFFIDAVIT OF SERVICE BY MAIL

State of New York

County of _____

SS:

I, KEVIN SMITH, being duly sworn, deposes and says: that I am the plaintiff herein and served a copy of the following document(s):

CIVIL RIGHTS ACT, 42 U.S.C. 1983 (Specify document(s))

on CHARLES L. BRIEANT, Jr. UNITED STATES (Name of person/Addressee)

at: COURTHOUSE, 300 QUARROPAS STREET (Address to which document(s)

WHITE PLAINS, NEW YORK 10601-4150 were sent)

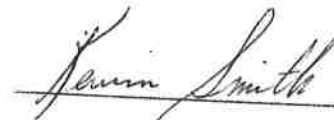
by mailing and depositing a true and correct copy of said document(s) in a mailbox located

at: P.O. BOX-10 VALHALLA, NEW YORK 10595

on the following date: JUNE, 1st, 2016

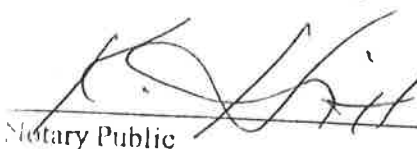
I declare under penalty of perjury that the foregoing is true and correct.

DATED: 6/1/16



Signature of Plaintiff

Sworn to before me this 1 day of June, 2016.



Notary Public

Kaselthia M. Hewitt
Notary Public
State Of New York, Westchester County
01HE6332259
Commission Expires 10-26-20 19

KEVIN SMITH # 183673
P.O. BOX-10 3SE-37
VALHALLA, NEW YORK 10595

RECEIVED
SDNY PRO SE OFFICE
2016 JUN 16 PM 12: 02

RETURN RECD
REQUESTED

CHARLES L. BRIEANT JR.
UNITED STATES COURTHOUSE
300 QUARROPAS STREET
WHITE PLAINS, NEW YORK 10601-4150



RETURN RECD
REQUESTED

USM_{WP}
SDNY

4429 E20E 0000 0262 T102

